IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

Crl.MC.No. 2414 of 2007()

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CRIME NO. 233/01 OF KOTHAMANGALAM POLICE STATION
CC.97/2004 of CHIEF JUDICIAL MAGISTRATE COURT, KOTHAMANGALAM

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PETITIONER: ACCUSED
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NARAYANADAS, S/O.DIVAKARA MENON,
PARAMBATH HOUSE, JAYANTHI ROAD,
MARADU, ERNAKULAM.

BY ADV. SRI.GEORGE SIMON

RESPONDENTS: COMPLAINANT
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STATE OF KERALA,
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 27/07/2007, A/W. CRMC 2415 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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Crl.M.C.Nos. 2414 & 2415 of 2007

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Dated this the 27th day of July, 2007

**O R D E R**

The petitioner faces indictment in two separate prosecutions both, inter alia, under Section 379 I.P.C. Investigation is complete. Final report has already been filed. Those crimes were registered as early as in 2001. Cognizance was taken in these two cases as early as in 2004. The petitioner was not available for trial. Some of the co-accused have already been tried and found not guilty and acquitted.

2. Be that as it may, consequent to non-appearance of the petitioner, warrants of arrest and coercive processes have been initiated by the learned Magistrate and the petitioner finds such warrants of arrest issued by the learned Magistrate chasing him.

3. According to the petitioner he is absolutely innocent. His failure/omission to appear earlier was not wilful, but was due to reasons beyond his control. He is willing to surrender before the learned Magistrate and seek bail. He shall co-operate with the Court for the expeditious disposal of the case. But he apprehends that his

application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances it is prayed that appropriate directions may be issued to the learned Magistrate to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on

merits, in accordance with law and expeditiously - on the date of surrender itself.

**(R. BASANT)**
Judge

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